IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 169 of 2005

Between:

M/s. Shriram Cold Storage, IDA Nacharam, Rangareddy

District rep by its Managing Director, K. Ramakrishna.

..... PETITIONER

AND

1 Chief General Manager, Operation, APCPDCL, Singareni

Bhavan, Hyderabad.
2 The Superintendent Engineer, Assessments, APCPDCL,

Hyderabad.
3 The Assistant Accounts Officer, ERO, APCPDCL, Habsiguda,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Mandamus declaring the action of the respondents seeking to collect Rs. 3,41,464/- relating to order dt. 27-12-2003 of the 2nd respondent against which appeal and stay application filed on 22-1-2004 before the 1st respondent are pending as part of the consumption bill for November, 2004 and disconnecting the power supply to the petitioner on 21-12-2004 as illegal, arbitrary and unconstitutional and consequently direct the respondents to pass orders on the appeal and stay application filed by the petitioner forthwith.

Counsel for the Petitioner:MRS. G.JHANSI

Counsel for the Respondents: MR.P.SREE RAMULU REDDY

The Court at the admission stage made the following :

ORDER:

The petitioner is a cold storage unit operating in Nacharam Village. The 2nd respondent passed an order of final assessment, dated 27.12.2003 by recording a finding to the effect that the petitioner had resorted to pilferage of power valued at Rs.3,41,464/-. It was preceded by issuance of an order of provisional assessment and submission of explanation by the petitioner. The petitioner claims to have presented an appeal before the 1st respondent against the order of final assessment together with an application for stay. Its grievance is that the 1st respondent did not pass any interim order so far and in the meanwhile the power supply has been disconnected. It seeks appropriate directions in this regard.

Heard learned counsel for the petitioner and learned standing counsel for the respondents.

An order of final assessment was passed on 27.12.2003, holding that the petitioner had resorted to pilferage of power valued at Rs.3,41,464/-. The petitioner claims to have preferred an appeal before the 1st respondent along with an application for stay. The reasons for not passing any order so far, either in the appeal or in the stay petition, are not before this Court. The petitioner states that the amount covered by the order of final assessment was included in the bill for the month of November and for non-payment of the same, the power supply was disconnected. The correctness or otherwise of the order, dated 27.12.2003 passed by the 2nd respondent needs to be considered by the 1st respondent. However, the interest of the petitioner as well as the distribution company need to be protected, pending disposal of the appeal.

Having regard to the facts and circumstances of the case, this writ petition is disposed of, directing that the power supply to the petitioner shall be restored as and when it deposits a sum of Rs.1,25,000/- (Rupees one lakh and twenty five thousand only) towards the amount payable under the order of final assessment dated 27.12.2003. The petitioner shall also be liable to pay the regular consumption charges. The payment of Rs.1,25,000/- shall be subject to the outcome of the appeal pending before the 1st respondent. There shall be no order as to costs.

18.01.2005

Note: Issue C.C. by tomorrow

(B/o)

Jsu

To

1 Chief General Manager, Operation, APCPDCL, Singareni

Bhavan, Hyderabad.
2 The Superintendent Engineer, Assessments, APCPDCL,

Hyderabad.
3 The Assistant Accounts Officer, ERO, APCPDCL, Habsiguda,

Hyderabad.

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